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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 26 October 2004 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chairman of the Committee and has the honour to transmit herewith, for distribution to the Member States of the Organization, a copy of the national report prepared by Spain pursuant to paragraph 4 of Security Council resolution 1540 (2004) (see annex).

04-59009 (E) 231104 141204

Annex to the note verbale dated 26 October 2004 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Committee

National report submitted by Spain pursuant to Security Council resolution 1540 (2004)

Preliminary observations

The adoption of Security Council resolution 1540 (2004) on 28 April 2004 is a milestone in the international community's determination to combat the proliferation of weapons of mass destruction and terrorism.

As one of the States that co-sponsored the resolution, Spain appeals for the active participation of all Members of the United Nations in the work cycle just beginning. Resolution 1540 is a valuable frame of reference for developing the dialogue and consultation so vital for resolutely addressing the existing challenges. In this connection, Spain wishes once more to reaffirm that it is of the utmost importance in this process to maintain and strengthen international cooperation (in the spirit of *effective multilateralism*) as the essential instrument for safeguarding and promoting peace and security.

Report

Paragraph 1: Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Spain fully assumes its responsibilities and commitments in the struggle against the proliferation of weapons of mass destruction and neither supports nor collaborates in any way with non-State actors participating in the activities described. The Spanish authorities are fully aware of the danger posed by proliferation and zealously monitor and follow such actions. Spain, which is in the vanguard of the war on terrorism being waged in multilateral forums, hopes that international cooperation and consultation can be intensified to address the issue of non-State actors.

Paragraph 2: Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

Spanish legislation covers a variety of scenarios involving the use or operation of weapons and technologies of mass destruction, with prohibitions and criminal penalties in the event of infringement.

Activities relating to nuclear weapons are covered by various criminal offences in articles 341 to 345 of the Criminal Code (Organic Law 10/1995 of 23 November 1995), which refer to "*crimes relating to nuclear power*". These are broad-ranging: *release of nuclear power or radioactive elements that endanger the lives or health*

of persons or their property, even if no explosion is involved, interference with the functioning of nuclear or radioactive facilities, production of dangerous radiations and acquisition, receipt, trade, transport, possession or unauthorized use (even if not for profit) of nuclear materials or radioactive elements, and other activities subject to severe prison sentences.

The obligation to establish a criminal penalty for activities involving chemical weapons and biological or toxin weapons stems from the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention) and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological Weapons Convention) and has been enforced in successive redrafts of the Spanish Criminal Code. In its current version, enacted by Organic Laws 2/2000 of 7 January 2000 and 15/2003 of 25 November 2003, articles 561, 566, 567 and 568 of the Criminal Code specifically define the crimes of manufacture, development, stockpiling, use and trade (both purchase and sale) of chemical and biological weapons, including possession and commission of acts preparatory to these activities, and "*scientific and technical research geared to the creation of a new chemical or biological weapon or the transformation of an existing one*", as well as threatened use of chemical or biological and toxin weapons (even if the threat is not substantiated by possession of weapons). Criminal law specifies various prison sentences for such acts and expressly mentions the applicable international conventions and treaties.

Paragraph 3: Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) *Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport.*

With regard to nuclear material, within the European Union, to which Spain belongs, the application of nuclear safeguards is a matter for the Commission of the European Communities, under the EURATOM Treaty. Moreover, the Commission also exercises responsibilities deriving from safeguards agreements signed by member States of the European Union with the International Atomic Energy Agency in accordance with INFCIRC 193 and INFCIRC 540). Spain has ratified the Protocol Additional to the Safeguards Agreement (which entered into force on 30 April 2004) and has also undertaken to introduce the legislative amendments needed to incorporate the recommendations of the Agency's Code of Conduct on the Safety and Security of Radioactive Sources (signed in April 2004). An independent government body, the Nuclear Safety Council (established by Act 15/1980 of 22 April 1980) is responsible for nuclear safety and the protection of radiological sources on Spanish territory. Other applicable legal instruments include the *Convention on Nuclear Safety* of 20 September 1994 and the *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management* of 5 September 1995, both of which Spain has ratified. In the area of domestic legislation, the relevant laws are Act 25/1964 of 29 April 1964 on Nuclear Energy (which has been updated on several occasions), the Regulations on Nuclear and Radioactive Facilities (Royal Decree 1836/1999) and the Regulations for the

protection of health against ionizing radiation (Royal Decree 783/2001). Still pending in Spain (until 2005) is the transposition of Council Directive 2003/122/EURATOM of the Council of the European Union, on sealed radioactive sources and orphan sources.

Regarding materials connected with the production of chemical weapons, and without prejudice to the applicable provisions of the Chemical Weapons Convention, the law in force is Act 49/1999 on measures for the control of chemical substances that could be diverted for the manufacture of chemical weapons, which establishes appropriate control mechanisms (licensing systems and official logs of pertinent activities in this field). Royal Decree 663/1997 established the National Authority for the Prohibition of Chemical Weapons (ANPAQ), which currently reports to the Ministry of Industry, Tourism and Trade and is responsible for ensuring Spain's fulfilment of its obligations under the Chemical Weapons Convention.

With regard to materials connected with the production of biological weapons, the applicable provisions are to be found in Act 15/1994 on Biosafety and its regulation contained in Royal Decree 951/97 and in Royal Decree 664/1997 of 12 May 1997 (and others updating it). There is currently no body similar to ANPAQ to centralize tasks relating to the non-proliferation of biological agents and biosafety, although the need for such a mechanism is being considered.

(b) *Develop and maintain appropriate effective physical protection measures.*

Spain is a party to the Convention on the Physical Protection of Nuclear Material of 3 March 1980 (INFCIRC 274), the provisions of which are incorporated in various legal instruments such as the Regulations for the physical protection of nuclear materials (Royal Decree 158/1995). It should be noted that Spain supports the revision of the Nuclear Material Convention and the holding of a diplomatic conference to that end. Lastly, Spain participates in the IAEA database on illicit trafficking in radioactive material.

The provisions referred to in the previous paragraph also apply to chemical and biological and toxin material.

(c) *Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law.*

In Spanish legislation, border controls to combat illicit trafficking and trade are established in Organic Law 12/1995 of 12 December 1995 on *Suppression of Smuggling*, which gives the competent authorities (the customs administration) the necessary authority to investigate and prosecute banned activities. Specific mention is made of trade in military end-use and dual-use items (articles 1.8 and 1.9). This law authorizes the competent bodies and services to contact and exchange information with counterparts in other countries (supplementary provision 1.3).

(d) *Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on*

providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

The control of exports and shipments of dual-use items and technology is regulated in the European Union in Council Regulation (EC) No. 1334/2000 of 22 June 2000 and Regulation (EC) No. 1504/2004 of 19 July 2004 amending and updating it. In order to introduce and supplement appropriate control measures to guarantee enforcement of these provisions, and in compliance with the obligations deriving from the Chemical Weapons Convention and the Biological Weapons Convention, the Spanish Government recently adopted Royal Decree 1782/2004 of 30 July 2004, updating and revising earlier legislation by introducing a new *Regulation on control of foreign trade in material for military end-uses, other material and dual-use items and technology*. In accordance with the provisions of this Regulation, an administrative authorization or licence system is in existence for foreign trade in material for military end-uses, other material and dual-use items and technology included in the control lists, and for operations involving other unlisted products, when their "*purpose is or may be to contribute, entirely or partly, to the development, production, operation, functioning, maintenance, stockpiling, detection, identification or proliferation of chemical, biological or nuclear weapons or other explosive nuclear devices, or to the development, production, maintenance or stockpiling of missiles capable of delivering such weapons*". Also covered by these provisions are intangible transfers (such as technical assistance that could be intended for weapons of mass destruction and their means of delivery, including via electronic media and oral assistance, even if it takes place outside the territory of the European Community) and specific references are made to the applicable international treaties. The Regulation also provides for other control mechanisms, such as compulsory registration in a special registry of foreign-trade operators and formal and documentary requirements specified by law for transactions and formalities.

At the same time, regarding criminal penalties, it should be pointed out that, in addition to the above information on Criminal Code provisions concerning use of and trafficking in technologies of mass destruction, also applicable are the provisions of the aforementioned Organic Law 12/1995 on *Suppression of Smuggling*, which classifies as a crime (among other actions) the unauthorized, or fraudulently authorized, export of military end-use or dual-use material (article 2.1.j).

Paragraph 5: Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons.

Spain is a party to the above-mentioned treaties and a member of IAEA and the Organization for the Prohibition of Chemical Weapons and participates actively in the negotiations being held in the Conference of States Parties to the Biological Weapons Convention (according to the programme of work adopted in 2002 for strengthening the implementation of the Convention). Compliance in good faith

with resolution 1540 implies no contradiction with the three aforementioned Conventions: on the contrary, the process of implementing this resolution should lead to reinforcement of the multilateral system, with the introduction of new mechanisms, such as verification in connection with the Biological Weapons Convention.

Paragraph 6: Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Spain is an active member of various international export control regimes (Nuclear Suppliers Group, Zangger Committee, Australia Group, Missile Technology Control Regime, Wassenaar Arrangement). Within the framework of those regimes and of the European Union (which also has control mechanisms), various procedures, control lists and information exchange protocols are being developed and maintained. An essential instrument in this activity is the lists contained in the annexes to the European Dual-use Regulation and the *External Trade Control Regulation* (aforementioned Regulation EC 1504/2004 of 19 July 2004 and Royal Decree 1782/2004).

Spain strongly advocates general adoption of export control regimes, which represent an advanced form of cooperation among States, and inclusion in these forums (with appropriate guarantees) of all interested countries. The issues of terrorist activity and non-State actors could be very effectively addressed using these systems.

Paragraph 7: Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions.

Spain appreciates that some States may encounter difficulties and request assistance for the proper fulfilment of the obligations deriving from international treaties and from resolution 1540 (among other non-proliferation instruments). The Spanish authorities have cooperated with other countries on various occasions, especially within the Organization for the Prohibition of Chemical Weapons and IAEA, to lend assistance (legal, technical and financial) for alleviating such situations. Spain has contributed and continues to contribute to the IAEA Technical Cooperation Fund and Nuclear Security Fund. Mention should also be made of the fact that Spain's National Authority for the Prohibition of Chemical Weapons (ANPAQ) has, in collaboration with the Organization for the Prohibition of Chemical Weapons, undertaken training activities to fulfil its obligations under the Chemical Weapons Convention (including Technical Events in 2002, 2003 and 2004).

Paragraph 8: Calls upon all States:

(a) *To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons.*

As a State party to all the universal multilateral treaties on the non-proliferation of weapons of mass destruction, Spain is resolutely committed to

maximum participation, effective fulfilment and strengthening of such legal systems. Both on its own and within the European Union, Spain is constantly taking measures to promote the universalization and development of these instruments (the Non-Proliferation Treaty, the Chemical Weapons Convention, the Biological Weapons Convention, the Protocol Additional to the Safeguards Agreements, the Comprehensive Nuclear-Test-Ban Treaty and the Hague Code of Conduct against Ballistic Missile Proliferation). In that connection, mention may be made of initiatives such as the *Common Position* adopted by the European Union in November 2003 *on the universalization and reinforcement of the main multilateral agreements on disarmament and non-proliferation*, and the measures contained in the EU *Strategy against Proliferation of Weapons of Mass Destruction* (December 2003). One especially interesting initiative among these measures is the inclusion of a non-proliferation clause in European Union agreements with third countries, which can significantly contribute to the strengthening of the international community's positions on non-proliferation. Broadly speaking, Spain is and will continue to be active in the follow-up to the United Nations Security Council resolutions 1540 (non-proliferation and non-State actors) and 1373 (terrorism), including those that develop and supplement the latter: resolutions 1377 (2001), 1456 (2003), 1535 (2004) and 1566 (2004).

(b) *To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties.*

Spain has adopted the legal and statutory provisions needed to incorporate the obligations and commitments under the key disarmament and non-proliferation treaties into domestic legislation (the measures have been explained in detail in other sections of this report). The Spanish authorities consider that they have made the required incorporation. However, and without prejudice to the foregoing, Spain remains open to all dialogue aimed at identifying other ways of fulfilling those obligations.

(c) *To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes.*

Spain firmly believes in multilateral cooperation as a means of achieving the objectives of disarmament and non-proliferation and participates as a contributor, a voluntary donor and executing agent in many projects implemented in international organizations, while maintaining bilateral cooperation in this field (more details on this subject have been provided in our comments on paragraph 7).

(d) *To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws.*

The Spanish authorities appreciate the important contribution of civil society and industry (among other outstanding actors) to the implementation of non-proliferation policies. Important objectives in this field are achieved through public information on laws and international commitments. There are also other aspects of collaboration with industry and the public: for instance, awareness-raising and

information on the security risks posed by the proliferation of weapons of mass destruction and terrorism, not to mention the necessary reference to individual and collective obligations and penalties for non-fulfilment of those obligations. Spanish legislation provides for various mechanisms for consultation and information among bodies involved in technologies relating to nuclear power or to weapons of mass destruction (e.g. the Nuclear Safety Council, ANPAQ, etc.) and the sector industry, with the holding of meetings and seminars. These bodies participate, as advisers and observers, in the inspection processes conducted in accordance with international verification systems established in the treaties (safeguards agreements, Additional Protocol, Chemical Weapons Convention, etc.).

Paragraph 9: Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical or biological weapons, and their means of delivery.

In the context of *effective multilateralism* referred to in various documents, including the European Union Strategy against the Proliferation of Weapons of Mass Destruction, Spain firmly supports dialogue and cooperation in the various international forums for generating responses and strategies in the struggle against proliferation and terrorism. Spain understands that in this dialogue and cooperation it is important to assign a degree of priority to the fulfilment of international obligations, and to the mechanisms of transparency and verification and that, at the same time, the objective of non-proliferation cannot be divorced from disarmament objectives and commitments. At another level, it should be noted that the above-mentioned European Union Strategy also covers, in addition to this field, a very interesting concept: the need for a cross-cutting approach and comprehensive action, absorbing the repercussions and commitments of our non-proliferation policies into our economic and trade policies.

Paragraph 10: Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials.

In consultation with other friendly and allied countries, and without prejudice to its commitments within the multilateral institutions, Spain is acting, with due respect for international law, to promote and implement action to prevent illicit trafficking in nuclear, chemical and biological weapons, their means of delivery and related materials. Mention has been made in other sections of this report of Spain's presence in export control bodies and the implementation of bilateral cooperation projects.

Attention may also be drawn here to Spain's active participation in measures such as the Proliferation Security Initiative (PSI), one of whose first meetings was held in Madrid (June 2003). Spain was one of the 11 founding members of PSI, which many other countries later joined. This mechanism aims to establish cooperation systems for intervention and interception, in accordance with the applicable rules of international law, of shipments or cargoes of technologies and materials relevant to proliferation. Spain has organized an operational exercise and is preparing another for 2005.

In consultation with other countries, Spain hopes to intensify its activities in this area. In particular, Spain has participated as an observer in working sessions of

the G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction and the Global Threat Reduction Initiative. New forms of participation are under study.

Additional notes

More information on the Spanish Government's activities and commitments is available on the web site of the Ministry of External Affairs and Cooperation of the Kingdom of Spain (www.mae.es and www.nuevo.maec.es).

Note on the report submitted by the European Union

Since Spain is a member of the European Union, reference is made to the European Union Common Report that will be transmitted separately to the Special Committee of the United Nations Security Council. This EU report covers areas and activities in relation to Security Council resolution 1540 (2004) and should be read in conjunction with this national report.

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Note verbale dated 20 October 2004 from the Permanent Mission of Belarus to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Belarus to the United Nations presents its compliments to the Chairman of the Committee, and has the honour to submit the national report of the Republic of Belarus in accordance with Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 20 October 2004 from the Permanent Mission of Belarus to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

National report of Belarus on the implementation of Security Council resolution 1540 (2004)

Belarus supports Security Council resolution 1540 (2004) on the prevention of the proliferation of weapons of mass destruction and their means of delivery and their acquisition by non-State actors.

Belarus has made a significant contribution to the strengthening of regional and international security and continues to take practical steps to that end.

Belarus, which was the first State voluntarily to give up possession of the nuclear weapons remaining following the break-up of the Soviet Union, acceded to the Treaty on the Non-Proliferation of Nuclear Weapons as a non-nuclear-weapon State in 1993; the removal of nuclear weapons from its territory was completed in November 1996.

In the First Committee of the General Assembly, Belarus initiated the adoption of resolution 57/50 on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons, which supplements Security Council resolution 1540 (2004).

Belarus is making a tangible contribution to efforts to combat international terrorism and is part of the global anti-terrorism coalition. It has ratified all 12 of the universal anti-terrorism conventions.

Belarus supports the counter-terrorism efforts of the Organization for Security and Cooperation in Europe (OSCE), the Commonwealth of Independent States (CIS) and the Collective Security Treaty Organization. Its law enforcement agencies cooperate in combating terrorism with the law enforcement agencies and special services of foreign countries on a regular basis.

Paragraph-by-paragraph comments on Security Council resolution 1540 (2004)

Paragraph 1

All States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Belarus does not possess nuclear, chemical or biological weapons and their means of delivery (weapons of mass destruction).

Belarus does not provide any support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Paragraph 2

All States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

Belarusian legislation contains a series of norms providing responsibility for offences relating directly or indirectly to weapons of mass destruction.

Article 129 of the Criminal Code establishes responsibility for the manufacture, acquisition, storage, transport, transfer and sale of weapons of mass destruction prohibited by the international treaties of Belarus and other prohibited instruments of war or their components and the conduct of research aimed at manufacturing or using such weapons or components. Such acts are punishable by restriction of liberty for 3 to 5 years or deprivation of liberty for 3 to 10 years.

Article 134 also provides responsibility for the use of weapons of mass destruction prohibited by the international treaties of Belarus, which is punishable by deprivation of liberty for 10 to 25 years or life imprisonment or the death penalty.

Articles 322 to 324 of the Criminal Code establish responsibility for illegal actions involving radioactive materials, which, although they are not categorized as weapons of mass destruction, may be used for unlawful purposes.

In accordance with article 322, the illegal acquisition, storage, use, sale or destruction of radioactive materials (sources of ionizing radiation, radioactive substances and nuclear materials in any physical state, at a facility, in an object or in any other form) is a punishable offence.

Article 323 establishes responsibility for stealing radioactive materials. The penalties for this act depend on the elements of the offence, for example: whether it is a repeat offence; whether it is committed by a group of persons, by a person to whom these materials have been entrusted in connection with his or her official or professional activities or for protection, or by a person who has previously committed offences referred to in articles 322 or 324 of the Criminal Code; and whether the offence involves the use of violence or extortion, or is committed by an organized group.

Under article 324, responsibility is incurred for threatening to use radioactive materials in a dangerous manner in order to force a State or international organization or a natural or legal person to commit any action or refrain from committing an action or for any other purpose, provided that the threat was credible.

In accordance with article 294, paragraph 2, of the Criminal Code, stealing nuclear, chemical, biological or other types of weapons of mass destruction or their basic components is punishable by deprivation of liberty for 5 to 10 years, with or without confiscation of property. There are deemed to be aggravating circumstances if this act is committed for the purpose of selling the weapons or components, if it is a repeat offence, if it is committed by a group of persons, by an official using his or her powers, or by a person to whom weapons of mass destruction have been issued for official use or entrusted for protection, or if it involves the use of violence or

extortion, or is committed by an organized group. In this article, stealing means the deliberate, unlawful seizure of weapons of mass destruction or of title to such weapons, without compensation, through theft, aggravated theft, robbery, extortion, fraud, abuse of official powers, expropriation, misuse or use of information technology, regardless of whether there is a mercenary motive.

With regard to the punishability of complicity in the commission of these offences (particularly their financing), article 16, paragraph 6, of the Criminal Code, defines an accomplice as a person who facilitates the commission of an offence by giving advice or instructions, supplying information or instruments used to commit the offence, eliminating obstacles or providing other assistance, a person who promises before the offence is committed to conceal the offender, the instruments used to commit the offence, evidence of the offence or items obtained by criminal means, or a person who promises before the offence is committed to acquire or sell such items.

The laws in the Republic regulating financial relations between the State and economic actors (Act "On the budgetary system of the Republic of Belarus and on extrabudgetary funds") ensure complete control over financial flows and preclude the possibility of funds and services being provided to non-State actors that could manufacture or acquire weapons of mass destruction.

Paragraph 3

All States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials.

In conformity with the provisions of article 1.3, paragraph 4, of Decree No. 94 of the President of the Republic of Belarus of 11 March 2003 "On certain measures to regulate military and technical cooperation between the Republic of Belarus and foreign States", one of the fundamental principles of State policy in the field of military and technical cooperation is compliance with international treaties on the non-proliferation of nuclear weapons, arms reduction and disarmament and the prohibition and destruction of chemical, biological and other types of weapons of mass destruction.

Paragraph 3 (a)

Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport.

Nuclear field

Since 1993, Belarus has been a State party to the Treaty on the Non-Proliferation of Nuclear Weapons, in accordance with which it undertook to conclude an agreement with the International Atomic Energy Agency (IAEA) to place all its nuclear material under IAEA safeguards and to prevent its diversion for military purposes.

The Agreement between the Republic of Belarus and IAEA for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons entered into force in 1995. Belarus declared the location, characteristics

and intended use of all nuclear material and of facilities under its jurisdiction at which such material is used and assumed the obligation to provide for the inspection by IAEA of all nuclear material and facilities.

The Act of the Republic of Belarus "On the radiological security of the population" establishes that regulation of the export and import of sources of ionizing radiation and monitoring of their export, import, transport and transit are functions of the State in the field of ensuring radiological security.

In Decision No. 373 of the Council of Ministers of the Republic of Belarus of 8 June 1993 "On measures to implement the Treaty on the Non-Proliferation of Nuclear Weapons", the Department for the Supervision of Industrial and Nuclear Safety (Promatomnadzor) of the Ministry for Emergency Situations was instructed to establish and implement a State system of accounting for and control of nuclear materials.

The basic documents necessary for the functioning of the system have been drafted and brought into effect. These documents define the rules and procedures with respect to accounting for and control of nuclear material and compiling and submitting reports to the State agency and IAEA. Criteria have been defined for applying and ceasing to apply accounting and control measures to nuclear material, and powers and responsibilities have been assigned.

Chemical field

Since 1993, Belarus has been a State party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

In order to fulfil its international obligations under the Convention, Belarus:

Ratified an agreement on privileges and immunities with the Organization for the Prohibition of Chemical Weapons (Act No. 105-3 of the Republic of Belarus of 25 May 2002);

Approved regulations on the procedure for the import (export) of chemicals subject to the control regime of the Chemical Weapons Convention (Decision No. 422 of the Council of Ministers of the Republic of Belarus of 29 March 2000);

Approved a list of chemicals subject to the control regime of the Chemical Weapons Convention (Decision No. 422 of the Council of Ministers of the Republic of Belarus of 29 March 2000);

Approved points of entry and points of exit for foreign inspection teams (Decision No. 650 of the Council of Ministers of the Republic of Belarus of 28 October 1992).

Biological field

Since 1975, Belarus has been a State party to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

In order to fulfil its international obligations under the Convention, Belarus adopted the following legislative acts and other laws and regulations governing the procedures for the handling (including (a) work with, (b) storage, (c) transfer,

(d) carriage and (e) transport) of micro-organisms, biological agents and toxins hazardous to humans, animals and plants:

Act of the Republic of Belarus of 23 November 1993 "On the medical and epidemiological welfare of the population";

Act of the Republic of Belarus of 2 December 1994 "On veterinary matters";

Act of the Republic of Belarus of 25 November 1993 "On waste";

Decision No. 1807 of the Council of Ministers of the Republic of Belarus of 14 December 2001 "On improving the State system for the sanitary regulation and registration of chemical and biological substances, materials and articles made from such substances, products for industrial and military use, goods for personal use and foodstuffs";

Decision No. 1481 of the Council of Ministers of the Republic of Belarus of 24 October 2002 "On the State pesticides programme for 2003-2006 and subsequent years".

In addition, the State security agencies thoroughly analyse all instances in which radioactive, chemical and other substances are discovered in the territory of Belarus on account of their potential use for terrorist and other extremist ends. Effective counter-intelligence is organized at facilities where there are radioactive materials and chemicals, primarily for early-warning purposes.

Special-purpose measures are being implemented to prevent terrorist and other extremist acts at facilities in the Republic that pose a heightened threat to the environment. In this connection, "Zaslon" ("Shield") combined tactical and special exercises are conducted annually.

For example, in September 2003, an anti-terrorism exercise was conducted at the "Sosna" Joint Institute for Energy and Nuclear Research. Within the framework of the exercise, questions relating to the neutralization of terrorists threatening to cause an explosion at the facility were resolved.

The State security agencies are taking steps to prevent and suppress illicit trafficking in nuclear, chemical and biological weapons and their means of delivery. They are constantly seeking, together with the customs agencies and border troops, to improve the detection of smuggled goods in transit.

Paragraph 3 (b)

Develop and maintain appropriate effective physical protection measures.

One of the most important tasks addressed by Belarus is the upgrading of measures for the accounting, security and physical protection of sensitive materials covered by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.

The country's compliance with the provisions of this Code of Conduct was confirmed in a letter from the Government of Belarus addressed to the Director-General of IAEA.

Improvement plans

A draft plan on measures to implement the IAEA Code of Conduct is currently in the process of being approved by the government departments concerned.

The draft plan provides for:

- Amendment of the Order "On the physical protection of nuclear materials during their use, storage and transport" to take into account the new national legislation and international requirements in this area;
- Harmonization of the legislation on the import and export of radioactive (nuclear) materials with the requirements of the Code;
- Systematic organization and analysis of the IAEA data on accidents and on illicit trafficking in radionuclide sources of ionizing radiation and the provision of relevant information to interested parties, when necessary;
- Phased introduction of systems for the detection of radioactive sources at facilities where large numbers of personnel are present;
- Equipment of facilities using sources of ionizing radiation with a direct link or with radiation-detection systems transmitting a warning of dangerously high levels of radiation to the local emergency agency or unit.

Paragraph 3 (c)

Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law.

Since Belarus does not possess any nuclear, chemical or biological weapons, means of their delivery or related components, the control of their movement consists essentially of control of their transit through Belarusian territory and across its borders.

The frontier of Belarus with Ukraine, Poland and the Baltic States is the outer limits of the Union of Belarus and Russia and the Euro-Asian Economic Community (EurAsEC). The mining and production of nuclear and radioactive materials are concentrated in the territory of States members of EurAsEC, primarily Russia and Kazakhstan. Since two of the 10 trans-European corridors pass through Belarusian territory and there are no customs controls of goods or means of transport on the border between Belarus and Russia, there is a real risk of unauthorized movement of nuclear or radioactive materials along the shortest route to the West through Belarusian territory.

In close proximity to the border of Belarus is the recently shut-down Chernobyl nuclear power station, currently containing a dangerous stock of fresh and depleted nuclear fuel and radioactive materials and equipment.

Article 26 of the Act "On State Frontiers" gives the customs authorities the responsibility for radiation controls at border crossing points.

Analysis of the results of the operational activities of the customs and border-control sections and units shows an increase in the number of top quality and highly

professional forgeries in documents, effected with the aid of modern equipment, and of various secret compartments in the means of transport used for the unlawful transport across the Belarusian border of goods and cargoes of different kinds, including nuclear, chemical and bacteriological weapons.

There have been cases of the interception in Belarusian territory both of radioactive materials transported unlawfully across the frontier and of attempts to sell samples of nuclear fuel illegally.

These facts confirm the urgency of combating illicit trafficking in nuclear and radioactive materials in order to guarantee the safety of the State and to protect the people's health and the environment. In view of Belarus's geographical position in Europe, this is of enormous importance for the whole European region.

This task requires large numbers of highly qualified experts and the installation at border crossing points of appropriate modern radiation-detection equipment.

Mention must be made of the assistance furnished to the country's border-protection forces by international organizations.

For example, the State Committee on Border-Protection Forces is currently collaborating closely with IAEA. As part of this cooperation in 2003-2004, the border-protection forces of Belarus received special radiation equipment to enable them to detect not only the presence of radionuclides in the human body but also the source of their presence. In addition, IAEA acquired for the State Committee a mobile radiometry laboratory for examination both of members of the border-protection forces (in places where units are stationed and directly in the workplace) and of members of the civilian population.

Yet the customs authorities still have insufficient radiation-detection equipment.

Nine of the 32 road crossing points are equipped with fixed radiation-detection systems (gantry-mounted detectors). Only one of the 19 rail crossing points has gantry-mounted detectors.

The stock of hand-held radiation-detection devices is also insufficient and can meet no more than 20 per cent of the need.

Despite the present difficulties, specific efforts are being made to acquire and introduce in the customs service the latest technical means of detection and to equip crossing points with modern passport-control and vehicle-search devices and comprehensive automated systems.

Belarus is cooperating actively with other States in solving these problems. The bilateral intergovernmental agreements on cooperation and reciprocal assistance in customs matters concluded with Poland, Latvia, Lithuania, Estonia, Slovakia, Ukraine, Turkmenistan and the United States and the multilateral agreement concluded with countries members of the Commonwealth of Independent States (CIS) constitute the international legal basis for the involvement of the customs authorities of Belarus in the fight against customs-related crime, including the illegal movement of weapons of mass destruction. Agreements have been signed, but have not yet entered into force, with the Czech Republic, Italy and Iran. Work is

currently proceeding on the conclusion of similar agreements with Austria, Hungary, Romania, China, Mongolia and the Libyan Arab Jamahiriya.

Improvement plans

In view of the growing threat of the potential use of radioactive materials by international terrorists, attention is being given to the question of expanding cooperation in the provision of assistance to prevent illicit trafficking and smuggling of nuclear and radioactive materials across the State frontier of Belarus.

The country has the following requirements for radiation-detection equipment:

1. Fixed systems:
   - Road: 52,
   - Rail: 15,
   - Postal/baggage: 2;
2. Hand-held search devices: at least 150;
3. General-purpose dosimeters/radiometers: about 20;
4. Personal dosimeters: about 100;
5. X-ray dosimeters: 4.

Belarus's customs authorities are interested in developing technical cooperation with States and organizations having experience of combating illicit trafficking in nuclear and radioactive materials.

Paragraph 3 (d)

Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

Belarus has created and operates a multi-tiered system of export controls which enables it to deal effectively with questions of the prevention of the proliferation of weapons of mass destruction.

Belarus understands export controls to mean the introduction and operation of a procedure for authorizing the import into the territory of Belarus which is subject to customs controls, and the use, transit and export from that territory, of items subject to export controls (scheduled items (goods and services)).

The Act "On Export Controls" of 6 January 1998 is the basic legislation relating to export controls. The Act sets out the legal bases and the powers of government agencies and legal and natural persons in the sphere of export controls, as well as the purposes, fundamental principles and concepts of the export-control system and a schedule of controlled items (goods, services).

The Inter-departmental Commission on Military and Technical Cooperation and Export Controls of the Security Council of the Republic of Belarus is the body authorized to formulate proposals and monitor the implementation of State policy in the field of military and technical cooperation and export controls. The Commission's membership includes representatives of the State Secretariat of the Security Council, the Ministry of Foreign Affairs, the Ministry of Defence, the State Military and Industrial Committee, the State Customs Committee, and the State Security Committee.

The State Military and Industrial Committee is the executing agency for export controls.

For the purposes of engaging in foreign trade in scheduled items (goods, services), legal persons in Belarus must obtain through the established procedure certification of their entitlement to trade in such items.

Scheduled items (goods, services) are exported and imported under licences issued by the State Military and Industrial Committee (Order No. 133 of the Council of Ministers of 4 February 2003, in its 2004 version).

Accordingly, in order to import or export scheduled items (goods, services) into or from Belarusian territory it is necessary to obtain:

- Certification of entitlement to engage in foreign trade in scheduled items (goods, services);
- A licence for each foreign-trade transaction.

The transit of military cargoes through Belarusian territory is subject to authorization by the State Customs Committee (Order No. 522 of the Council of Ministers of 24 April 2002).

In the event of overflight of Belarusian territory by an aircraft transporting a military cargo, the State Aviation Committee, of its own accord or at the request of the competent governmental authorities, is authorized to require the aircraft to land in Belarusian territory.

The requirements for authorization of the transit of a military cargo include the possession of financial guarantees by a party to the transit operation and sound arrangements for the physical protection of the cargo in accordance with the legislation and international agreements of Belarus.

Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of States Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

The Republic of Belarus is a party to the Nuclear Non-Proliferation Treaty, the Comprehensive Nuclear Test Ban Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention.

In order to comply with its international obligations, Belarus actively cooperates with the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons.

Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Measures for State import and export controls are in effect with respect to the following scheduled items (work, services):

Nuclear materials, equipment, special non-nuclear materials and associated technologies connected with the nuclear fuel cycle and the production of nuclear materials which can be used in the production of nuclear weapons;

Chemicals, equipment and technologies that are intended for peaceful use but can be used in the production of chemical weapons;

Human, animal and plant disease-causing agents (pathogens), genetically modified forms thereof, fragments of genetic material and equipment that can be used in the production of bacteriological (biological) and toxin weapons;

Equipment, materials and technologies used in the production of missile weapons and other means of delivery of nuclear, chemical, bacteriological (biological) and toxin weapons;

Dual-use goods and technologies;

Products intended for military use;

Means of encipherment (work or services), including ciphertechnology together with special technical devices intended for the private transmission of information.

Lists of scheduled items (work, services) are approved by decision of the State Military and Industrial Committee and of the State Customs Committee.

The lists are based on the lists of international non-proliferation regimes and the relevant international treaties.

Under the agreement between the Government of the Republic of Belarus and the Government of the Russian Federation "On unified export control procedures", the Russian Federation and the Republic of Belarus have agreed to implement export controls on the basis of standardized lists of export control items, such that the lists must correspond to the control lists of the international non-proliferation regimes, irrespective of whether the contracting parties are parties to them.

Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

The Republic of Belarus is willing to offer advisory assistance in the establishment of rules and regulations governing export control.

Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

The Republic of Belarus is a party to the majority of multilateral treaties and agreements in the field of non-proliferation and international non-proliferation regimes:

Nuclear Non-Proliferation Treaty;

Comprehensive Nuclear-Test-Ban Treaty;

Strategic Arms Reduction Treaty;

Treaty on the Elimination of Medium- and Short-Range Missiles;

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;

Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction;

Safeguards Agreement of the International Atomic Energy Agency;

Convention on the Physical Protection of Nuclear Materials;

Nuclear Safety Convention;

Nuclear Suppliers Group;

Hague Code of Conduct against Ballistic Missile Proliferation.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

National legislation ensuring compliance with commitments under the key multilateral non-proliferation treaties has been developed bearing in mind international commitments undertaken and experience gained in worldwide practice.

The legislative acts in force in this area are enumerated above.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

The Republic of Belarus participates actively with the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons through:

Adoption at the national level of legislative and administrative measures to comply with the provisions of international instruments;

Active cooperation with inspection teams and other delegations of IAEA and OPCW;

Timely submission of annual national declarations.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Under legislation in force in the Republic of Belarus for the purpose of carrying out activity in connection with scheduled items (work, services), a legal entity is obliged to obtain, through the established procedure, a certificate of entitlement to engage in foreign trade activity with respect to scheduled items (work, services).

Legal entities that have obtained, through the established procedure, a certificate of entitlement to engage in activity connected with scheduled items, are recorded in the State register of the State Military and Industrial Committee of the Republic of Belarus. Thus, the State Military and Industrial Committee is in permanent contact with all industrial enterprises engaged in the said activities and keeps them informed of all new obligations of the Republic of Belarus and of changes in the legislation in force.

Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

The Republic of Belarus is available for cooperation with all States on the broad range of problems of non-proliferation of weapons of mass destruction.

Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

The Republic of Belarus shares the objectives of the Proliferation Security Initiative (PSI) and appreciates the efforts of the States participating in the Initiative to prevent the proliferation of weapons of mass destruction, materials for their production and their means of delivery.

Within the framework of its national legislation, Belarus is ready to cooperate with States participating in PSI in taking active measures to oppose the proliferation of weapons of mass destruction and their means of delivery.

With a view to providing the Initiative with an effective basis in international law, the Republic of Belarus considers it essential for its implementation machinery to be given comprehensive in-depth consideration in the United Nations Security Council, as the only universal body legally entitled to take mandatory measures for the maintenance or restoration of international peace and security.